

- III. Claims 22, 23, 25, 26, 27, 28, and 30, directed to a method of treatment comprising administering a compound of formula I that exhibits activity as an SRI antidepressant and an atypical antipsychotic agent (claim 24, formerly claim 25, and claim 29, formerly claim 30, belong in Group IV, *supra*); and
- IV. Claims 22, 24, 25, 26, 27, 28, and 29, directed to a method of treatment comprising administering a compound other than a compound of formula I exhibiting activity as an SRI antidepressant and an atypical antipsychotic agent.

According to the Examiner, the above-indicated Groups are distinct, each from the other. The reasons given by the Examiner are, first, that Group I and Group III, and Group II and Group IV, are allegedly related as product and process of use, wherein the process of use can be practiced with another materially different product. In this regard, the Examiner asserted that the process of use can be practiced using "other structurally different compounds having SRI antidepressant activity".

Secondly, the Examiner asserted that Group I and Group II, and Group III and Group IV, are directed to compositions and methods that have structurally dissimilar compounds. The Examiner stated that the compounds of formula I and the other compounds are made independently and used independently. The Examiner asserted that the compounds of formula I and the compounds of Group II (compounds other than formula I) are separately classified and require separate burdensome searches, both in the literature and in the computer databases.

In response to the Examiner's restriction requirement described above, applicant elects Group III, claims 22, 23, 25, 26, 27, 28, and 30 (formerly claims 23, 24, 26, 27, 28, 29, and 31, respectively), with traverse. The Examiner's argument that the methods of Groups III and IV can be practiced using materially different products, namely "other structurally different compounds having SRI antidepressant activity", is not logical because applicant's claims recite use of ANY compound having SRI antidepressant activity. It is illogical to argue that there exist compounds having SRI antidepressant activity that are structurally different from the category of ALL compounds having SRI antidepressant activity. The category of ALL compounds having SRI antidepressant activity by definition encompasses all possible structures of compounds that have such activity.

In response to the Examiner's submissions that the compounds of formula I fall into a separate class and require separate search than other compounds that have SRI antidepressant activity, and that search of compounds other than formula I would be burdensome, applicant replies that it would be unfair and equally burdensome for applicant to have to file separate patent applications for every structural category of compounds having SRI antidepressant activity. Applicant's invention pertains to compositions and methods that comprise the CATEGORY of compounds having SRI antidepressant activity, and it is unfair, if not impossible, to chop said category into multiple parts.

In the April 23, 2003 Office Action, the Examiner further required applicant to elect a single disclosed species falling within the elected Group.

In response, applicant elects, with traverse, the compound [2-(3,4-dichlorophenoxy)-5-fluorobenzyl]-methylamine as the compound exhibiting SRI antidepressant activity. This compound is the second-listed compound of claims 5 and 30 (formerly claim 31). For the atypical antipsychotic compound, applicant elects ziprasidone, the ninth-listed compound of claim 28 (formerly claim 29). Applicant traverses the requirement because the compounds of formula I and the compounds of formula II have the same structural core and all have indicated activity as SRI antidepressants. Claims 22, 23, 25, 26, 27, 28, and 30 (formerly claims 23, 24, 25, 26, 27, 28, 29, and 31) of the elected Group, Group III, read on the elected species.

If a telephone interview would be of assistance in advancing the prosecution of the subject application, applicant's undersigned attorney kindly invites the Examiner to telephone at the number provided below.

No fee, other than the fee for the two month extension of time, the payment of which is authorized in the Petition filed herewith, is believed necessary in connection with filing this Communication. However, if any other fee is determined necessary in connection with filing this Communication, the undersigned hereby authorizes charging such fee to Deposit Account No. 16-1445.

Respectfully submitted,

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